

**ORIGINAL**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

05096117  
CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

2016 DEC -8 A 9:37

**BOB BAKER**

**VS.**

**CITIBANK, N.A.**

DEPUTY CLERK RW

**CIVIL ACTION NO.**

**JURY TRIAL DEMANDED**

**3-16CV-3391M**

**COMPLAINT**

**JURISDICTION**

1. The jurisdiction of this Court attains pursuant to 15 U.S.C. §1666 et seq, the Fair Credit Billing Act ("FCBA") and Regulation Z issued thereunder for which jurisdiction is proper in this Court. 15 U.S.C. §1640(e) and 28 U.S.C. §§1331 and 1367 and state law claims supplemental thereto.

**PARTIES**

2. Plaintiff, Bob Baker, is a natural person who resides in Dallas County, Texas.
3. Defendant Citibank (South Dakota ) N.A., is a national banking association that does not have a business office in Texas and therefore no registered agent for service in Texas. Defendant may be served by service upon its President, CEO, or other officer, at 701 East 60<sup>th</sup> Street, North, Sioux Falls, South Dakota, 57104.

**FACTUAL ALLEGATIONS**

4. Plaintiff Bob Baker is a natural person who entered into an open-end credit transaction, namely a VISA account, with defendant for personal, family and household purposes.
5. At all times relevant hereto, Defendant Citibank, in the ordinary course of business, regularly extended open-end consumer credit, pursuant to a VISA, on which defendant assessed finance charges.
6. Plaintiff subscribed to a monthly commercial real estate listing service and paid with his Citi card.
7. In late spring, 2015, it was apparent that the service was not profitable and, because it was a monthly service, Plaintiff contacted the service, LoopNet, by phone, to request cancellation. The

person on the phone agreed to process the cancellation request. The call was made in June, 2015 so no new charges should have been made to Plaintiff's Citi account.

8. Plaintiff received the July Citi bill and noticed that Loopnet was still billing for the cancelled service. Plaintiff called Loopnet but was unable to reach anyone by phone.

9. Plaintiff continued to make calls to Loopnet to verify cancellation but no one at Loopnet would take his calls.

10. After multiple attempts to reach Loopnet were unsuccessful and because Loopnet continued to bill for a cancelled service, Plaintiff contacted Defendant to dispute the billing of the Loopnet Service.

11. Within 60 days of receipt of the July bill, Plaintiff contacted Citi to request that the billing to Loopnet be stopped. Citi agreed to stop but nevertheless continued to allow his account to be billed by Loopnet.

12. Although Defendant originally agreed, it subsequently continued to allow the Loopnet billing to be charged to his credit card.

13. Despite multiple attempts to resolve with Defendant, Defendant refused to reverse past charges or stop future charges by Loopnet on his credit card account.

14. The remaining balance on the credit card is wrongful billings by Loopnet wrongfully allowed by Defendant.

## **CAUSES OF ACTION**

### **COUNT I**

15. Defendant has violated 12 C.F.R. pt. 226 cmt. 13 (c)(2)-2) by not completing its investigation within 2 billing cycles and by re-billing the disputed amount more than 2 billing cycles after being notified of the dispute.

16. Defendant has violated 15 U.S.C. §§1643, 1666 and 1666i and applicable rules by the practices described in this Complaint.

17. The foregoing acts and omissions were undertaken on behalf of the Defendant by its respective officers, agents, or employees acting at all times relevant hereto within the scope of that relationship.

## COUNT II

18. Defendant's actions and inactions, as described above, constitute a breach of the cardholder agreement with respect to the handling of billing disputes. Under the credit card agreement, Citi agreed, upon written notification of a billing dispute, to investigate and make a finding within 90 days of the initial dispute.

19. The initial dispute was made by Plaintiff in August, 2016. Although Citi initially verified the dispute, more than 90 days later, it reversed its decision and placed the unauthorized charges on Plaintiff's credit card, in violation of the law and its own written agreement.

20. Defendant continually honored the dispute and then did not, back and forth, back and forth, not making a final determination until long after 90 days.

## COUNT IV

21. Plaintiff's dispute constitutes a billing error as defined by 12 C.F.R. §1026.13(a)(3) and 15 U.S.C. §1666(b)(3).

22. Defendant has violated 15 U.S.C. §§1666 and 1666i and applicable rules by the practices described in this Complaint.

23. The foregoing acts and omissions were undertaken on behalf of the Defendant by its respective officers, agents, or employees acting at all times relevant hereto within the scope of that relationship.

24. Plaintiff sues herein for all remedies available under the Fair Credit Billing Act for Defendant's failure to comply with the statute.

25. By reason of the allegations in this petition, per the Fair Credit Billing Act, Plaintiff is entitled to recover attorney's fees in a sum that is reasonable in relation to the amount of work expended

for which Plaintiff sues herein. The attorney whose name is subscribed to this pleading has been employed to assist Plaintiff in the prosecution of this action.

**COUNT V**

**TEXAS DEBT COLLECTION PRACTICES ACT**

26. The actions taken by Defendant described above also constitute violations of the Texas Debt Collection Practices Act, Finance Code §392.303 and §302.304, for which Plaintiff hereby sues. A violation of the Texas Debt Collection Practices Act is a deceptive trade practice per §392.404. The Texas Debt Collection Practices Act mandates that Respondent be awarded all actual damages and at least \$100 for each violation of the act.

27. Defendant continues to bill for sums which are not due. Plaintiff cancelled the services for which bills were issued and, despite disputing, Defendant continued to allow the cancelled charges to be billed to Plaintiff's account.

28. Defendant's wrongful acts were done in a wanton and malicious manner with intent to injure and/or intimidate Plaintiff or with reckless disregard of the injurious consequences to Plaintiff. Plaintiff is, therefore, entitled to punitive or exemplary damages and sue for such damages.

29. By reason of the allegations in this petition, per the Fair Credit Billing Act, Plaintiff is entitled to recover attorney's fees in a sum that is reasonable in relation to the amount of work expended for which Plaintiff sues herein. The attorney whose name is subscribed to this pleading has been employed to assist Plaintiff in the prosecution of this action.

**Prayer for Relief**

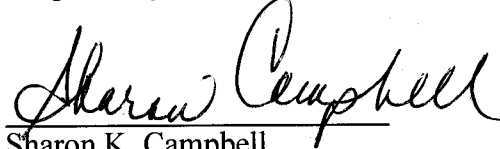
WHEREFORE, the Plaintiff prays that this Court:

1. Declare that Defendant's actions violate the FCBA and constitute breach of contract.
2. Enter judgment in favor of Plaintiff and against Defendant for statutory damages, actual damages, costs, and reasonable attorney fees as provided by 15 U.S.C. §1640(a)(2), 1666(e), 12 C.F.R. § pt. 226 cmt. 13(c)(2)(ii) and all applicable amendments.

3. Grant such further relief as deemed just.

**TRIAL BY JURY IS DEMANDED.**

Respectfully submitted,

A handwritten signature in cursive script, reading "Sharon K. Campbell". The signature is written in black ink and is positioned above a horizontal line.

Sharon K. Campbell  
State Bar # 03717600  
3500 Oak Lawn Ave., Suite 205  
Dallas, Texas 75219  
Telephone: 214/351-3260  
Fax: 214/443-6055  
Sharon@SharonKCampbell.com

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Bob Baker

**3-16CV-3391-M****DEFENDANTS**

Citibank, N.A.

**(b) County of Residence of First Listed Plaintiff**

(EXCEPT IN U.S. PLAINTIFF CASES)

**County of Residence of First Listed Defendant**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

**(c) Attorneys (Firm Name, Address, and Telephone Number)**

Sharon Campbell  
3500 Oak Lawn Ave., Suite 205  
Dallas, Texas 75219; 214-351-3260

**RECEIVED**

DEC - 8 2016

**Attorneys (If Known)****II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |   |                            |
|---|----------------------------|---|----------------------------|
| PTF                                     | DEF                        | PTF   | DEF                        |
| <input type="checkbox"/> 1              | <input type="checkbox"/> 1 | <input type="checkbox"/> 4                                    | <input type="checkbox"/> 4 |
| Citizen of This State                   |                            | Incorporated or Principal Place of Business In This State     |                            |
| <input type="checkbox"/> 2              | <input type="checkbox"/> 2 | <input type="checkbox"/> 5                                    | <input type="checkbox"/> 5 |
| Citizen of Another State                |                            | Incorporated and Principal Place of Business In Another State |                            |
| <input type="checkbox"/> 3              | <input type="checkbox"/> 3 | <input type="checkbox"/> 6                                    | <input type="checkbox"/> 6 |
| Citizen or Subject of a Foreign Country |                            | Foreign Nation  |                            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15. U.S.C. 1666 Fair Credit Billing Act

Brief description of cause:

Defendant violated FCBA by not honoring cancellation request

**VII. REQUESTED IN COMPLAINT:**

- ☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:**☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12-7-16

SIGNATURE OF ATTORNEY OF RECORD

Sharon Campbell

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE